

MASSACHUSETTS SIP STEERING COMMITTEE

Meeting Summary

August 21, 2013

In Attendance:

Cynthia Greene, EPA
Richard Burkhart, EPA
Haidee Janak, City of Boston
Casey Harvell, ALA
Bob Machaver, RT Associates
John Quinn, MA Petroleum Council
Bob Ruddock, Smith, Ruddock & Hayes

MassDEP Staff
Eileen Hiney
Richard Blanchet
Azin Kavian
Glenn Keith
Rich Fields
Ken Santlal

If materials related to an agenda item were distributed or presented at the meeting it is noted below. For more information concerning the agenda item, please refer to the materials, which are available at <http://www.mass.gov/dep/public/committee/daqcpu11.htm>.

1. Update on Stage I-II (Eileen Hiney)

- **June 21, 2013 Enforcement Discretion Directive**

Potential Stage I and II program changes were discussed at the April SIP Steering meeting following a March Stage I-II stakeholder meeting. At the March stakeholder meeting, MassDEP staff discussed proposed draft regulations that would eliminate Stage II requirements and require improved Stage I systems. The proposed regulations are based on a consultant's study that demonstrated that while Stage II will continue to reduce emissions in Massachusetts through 2015, the reductions are not cost-effective beyond 2013, as more vehicles are equipped with on-board vapor recovery systems. The evaluation also demonstrated that cost-effective emission reductions can be achieved by enhancing Stage I systems. MassDEP continued reviewing comments and discussing the proposed changes subsequent to the stakeholder meeting.

In the meantime, industry stakeholders were concerned about the expense of continuing to operate and maintain Stage II systems, given that the requirements might be eliminated soon. In response, on June 21, 2013, MassDEP issued an Enforcement Discretion Directive (EDD) to allow facilities to decommission their Stage II systems as of July 1, 2013, provided the facility meets the conditions of the EDD. The EDD requires that decommissioning be in accordance with the recommendations of the Petroleum Equipment Institute. A facility must perform tests after the decommissioning to insure that it is operating properly and must also upgrade two components of its Stage I system when it decommissions.

The Enforcement Discretion Directive is posted at:

<http://www.mass.gov/eea/docs/dep/air/community/s2edd13.pdf>

Frequently Asked Questions concerning decommissioning are posted at:

<http://www.mass.gov/eea/docs/dep/air/community/s2decfaq.pdf>

- **Draft Regulations to be Proposed**

MassDEP will propose regulations to eliminate Stage II and enhance Stage I systems. The proposed regulatory revisions, which are currently under internal review, are discussed in the Enforcement Discretion Directive.

2. Massachusetts Electric Vehicle Initiative (*Richard Blanchet*)

The Massachusetts Electric Vehicle Incentive Program (MassEVIP) is a competitive incentive program administered by MassDEP that provides incentives to municipalities for the acquisition of electric vehicles and installation of Level 2 charging stations. MassEVIP, funded with \$2.5 million from the Motor Vehicle Inspection Trust Fund, was announced on Earth Day 2013 at press events in Greenfield and Chelmsford and launched on May 1. MassEVIP provides the following incentives to successful applicants for electric vehicles and Level 2 charging stations:

- \$7,500 for battery electric vehicles
- \$5,000 for plug-in hybrids
- Up to \$15,000 to cover costs for the device and installation of a Level 2 charging station.

MassEVIP was open to all municipalities in the Commonwealth. The application deadline was July 26, 2013. Current applications are under review for approval by the Secretary. Awards will be announced shortly. A MassEVIP Phase 2 program will also be announced.

3. 2008 Ozone NAAQS Implementation

- **EPA's Proposed Implementation Rule** (*Richard Burkhardt – see presentation*)

EPA's proposed rule related to implementation of the 2008 ozone NAAQS was published in the Federal Register on June 6, 2013. A 90-day public comment period ends September 4th. The rule is expected to be final in early 2014. The proposal sets out requirements for non-attainment area SIPs related to modeling, Reasonable Further Progress, New Source Review, etc. Many of the provisions of the rule would not apply to Massachusetts because it has been designated as an attainment area for the 2008 ozone NAAQS, except for Duke's County, which is a marginal non-attainment area. All other areas in New England are also meeting the standard.

- **States' comments** (*Eileen Hiney*)

State organizations (NACAA, OTC, and NESCAUM) are developing written comments on EPA's proposed rule. Although the comment letters have not been finalized, a number of issues of concern have been identified. EPA is proposing to provide flexibility related to a number of Clean Air Act (CAA) SIP requirements. States' have different views on the substance of EPA's various flexibility provisions, but all agree that unless EPA is able to clearly demonstrate that the flexibility options meet the CAA, the rule may be overturned by the courts. With respect to flexibility concerning vehicle Inspection/Maintenance programs, the NESCAUM states are likely to comment that EPA's proposal to allow I/M program alternatives and to substitute other emission reductions to meet I/M requirements does not meet CAA requirements and undercuts the significant efforts states have made to provide effective and publicly acceptable I/M programs.

4. Ozone Season Update (*Rich Fields – see presentation*)

Despite the high temperatures experienced during the ozone season thus far this year, ozone concentrations have generally been low in Massachusetts and throughout most of the northeast. This is undoubtedly due, in part, to emission control measures put in place over the years. But meteorology must also have played a role since ozone concentrations in Connecticut were high this year, and were

high in Massachusetts just last year. One meteorological pattern that recurred during 2013 that contributed to lower ozone concentrations, involved a maritime air mass that moved westward from over the Atlantic. Unlike the usual continental air mass that crosses high emitting regions of the Midwest before reaching us, the Atlantic maritime air mass arrived in Massachusetts clean. Also, heavy rains across much of the east suppressed smoke from wild fires, which can contribute to ozone production and generate fine particle pollution. Fine particle concentrations have also been low this summer.

5. Transport

- **EPA's process to adopt a new transport rule** (*Rich Burkhart – see presentation*)

EPA's Cross State Air Pollution Rule was vacated in August, 2012. In June, 2013, The U.S. Supreme Court agreed to review the case. In the meantime, the previously promulgated Clean Air Interstate Rule (CAIR) must be implemented while EPA works on a new transport rule, which it plans to propose in summer 2014. EPA's new rule will define each state's obligation to address transport but each state will need to develop a SIP revision with a program to address its obligation. Unlike CSAPR and CAIR, EPA will not administer the program. EPA has held two stakeholder meetings with states and other interested parties to identify issues and possible options for dealing with transport in light of the court decision vacating the rule.

- **States' collaborative efforts** (*Eileen Hiney*)

The OTC states have begun initial discussions with mid-western and southern states to explore whether states might come to an agreement on joint recommendations to EPA on how to address transport. In 2009, the OTC states and the LADCO (Lake Michigan Air Directors Consortium) states engaged in an extensive collaborative process and developed recommendations related to a CAIR replacement rule.

6. President's Climate Action Plan (*Cynthia Greene – see presentation*)

EPA's role in President Obama's Action Plan to Address Climate Change includes regulating emissions from new and existing power plants, issuing greenhouse gas standards for vehicles, and cutting energy waste in homes, businesses and factories through the Energy Star program. Federal agencies, including EPA, have each developed individual climate change adaptation plans.

7. Infrastructure Certification SIPs for Ozone, NOx and SO2 (*Eileen Hiney*)

Anytime EPA issues a new or revised NAAQS, a state must either submit a SIP to provide for the implementation of the NAAQS or certify that its existing SIP is adequate. This requirement applies irrespective of an area's attainment status. "Infrastructure" refers to a state's underlying statutory and regulatory authority related to control measures, air monitoring, data collection, enforcement, etc.

MassDEP has previously submitted I-SIPs to EPA for the 1997 and 2006 PM 2.5 NAAQS, the 1997 ozone NAAQS, and the 2008 lead NAAQS. EPA has added more stringent requirements for these infrastructure-SIP (I-SIP) certifications recently in response to litigation brought by environmental groups. MassDEP issued a notice of a public hearing to be held on September 6, 2013, at 10:00 a.m. on I-SIPs related to the following three NAAQS revisions:

- 2008 ozone NAAQS, which set the 8-hour standard at 75 ppb;
- 2010 nitrogen dioxide (NO₂) NAAQS, which set a new 1-hour standard; and
- 2010 sulfur dioxide (SO₂) NAAQS, which set a new 1-hour standard.

In the certifications MassDEP concludes that its current SIP adequately provides for the implementation, maintenance and enforcement of each of these revised NAAQS.

EPA has commented that MassDEP needs to address the following issues for these and some of the previously submitted I-SIPs:

1. Conflict of Interest. Under Massachusetts law, M.G.L. c. 268A, The Conflict of Interest Law, heads of Executive Agencies with authority to approve air permits or enforcement orders are prohibited from involvement in matters in which their private interests conflict or appear to conflict with their public duties or responsibilities. MassDEP must submit this statute to EPA for inclusion in the MA SIP to meet the I-SIP requirements.

2. Air Quality Standards. MassDEP regulations that require compliance with an ambient air quality standard refer to the NAAQS, but do not define the term or indicate to which version of the standards the air regulations refer. EPA has indicated that MassDEP must add a definition of NAAQS that includes a calendar date, to make clear to which NAAQS version the regulations refer. MassDEP is revising 310 CMR 7.00 to add a definition of “NAAQS” explicitly listing the date the NAAQS were last revised (December 14, 2012) in order to meet the I-SIP requirements. This will require that MassDEP revise the regulation whenever EPA revises a NAAQS subsequent to December 14, 2012.

8. Next Meeting: December 12, 2013 at 10:00 am.